

**Before the Independent Hearings Panel
At Wellington City Council**

Under Schedule 1 of the Resource Management Act 1991

In the matter of Hearing submissions and further submissions on the
Proposed Wellington City District Plan

Reporting officer response to Minute 39: *Stream 3 Follow Up (Toomath Buildings)*

Date: 3 November 2023

INTRODUCTION

- 1 My name is Adam McCutcheon. I am employed as a Team Leader in the District Planning Team at Wellington City Council (the Council).
- 2 My [Stream 3 Section 42A Report](#) sets out my qualifications and experience as an expert in planning.
- 3 I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023, as applicable to the Independent Panel Hearing process. I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.
- 4 Any data, information, facts, and assumptions I have considered in forming my opinions are set out in the part of the evidence in which I express my opinions. Where I have set out opinions in my evidence, I have given reasons for those opinions.

SCOPE OF REPLY

- 5 I have prepared this Reply in respect of the matters in [Minute 39: Stream 3 Follow Up \(Toomaths Buildings\)](#).
- 6 Minute 39 focuses on the 'Toomath Building' located at 43 Ghuznee Street.
- 7 Minute 39 asks me to confirm:
 - 7.1 What instructions the Council has made in respect of its demolition following a fire on 15 October (at paragraph 2); and
 - 7.2 If the Panel is of the mind to determine the heritage schedule entry should be removed, whether there is scope within the submissions received, or if such a step would need to progress as an out-of-scope recommendation (at paragraph 4).

8 I respond to these two questions from the Panel, as well as address other planning provisions relevant to the building.

PLANNING SETTINGS

9 The building at 43 Ghuznee Street is in the 'City Centre Zone' of the Proposed District Plan (PDP).

10 It is entered on both the Operative District Plan and PDP heritage schedules as '#128 Toomath's Building'.

11 Additionally, it is located within the 'Cuba Street Heritage Area' in both plans, with the eastern wall of the building forming the outer extent of the Heritage Area.

12 The site has a maximum building height of 24m above ground level in both plans.

13 Provisions for verandah coverage and active frontages apply in both plans.

14 Provisions for flooding also apply to the site in the PDP only.

15 A screenshot of the PDP historic heritage overlays applying to the property is included below at Figure 1.



Figure 1: PDP screenshot of historic heritage overlays applying to 43 Ghuznee Street

FACTUAL BACKGROUND OF EVENTS

- 16 On Sunday 15 October 2023 the building caught fire.
- 17 On Monday 16 October 2023 a Council Officer inspected the building and observed compromised structural elements.
- 18 On Monday 16 and Tuesday 17 October, engineering reports were provided to the Council which stated that there was significant risk of collapse if the building were to remain in its then state. The reports recommended total demolition of the building and that there were no practically safe ways to undertake any other works, including to retain heritage features (ie, facades).
- 19 On 18 October 2023 the Council:
- 19.1 Declared the building 'dangerous' in accordance with [s121\(1\) of the Building Act 2004](#);
 - 19.2 Instructed the owners to complete work to reduce or remove danger within 10 working days in accordance with [s124\(1\) of the Building Act 2004](#); and
 - 19.3 Issued a direction to the owners pursuant to [section 330\(2\) of the Resource Management Act 1991 \(RMA\)](#) that the building be totally demolished as soon as reasonably practicable as an immediately necessary and sufficient action to remove the cause of, or mitigate the adverse effects, of the emergency.
 - 19.3.1 District plan provisions do not apply when undertaking action in accordance with such a direction.
- 20 The owners have complied with Council's directions.
- 21 The owner's contractors established safety measures during the week of 23 October 2023. Demolition of the building commenced towards the end of that week.
- 22 I visited the site on Friday 3 November 2023 and took the below photos showing demolition works underway at Figures 2 and 3 below.



Figure 2: Image of demolition works looking south from Ghuznee Street



Figure 3: Image of demolition works looking north from Swan Lane

AMENDMENTS REQUIRED TO THE PROPOSED DISTRICT PLAN

- 23 I confirm that there were no submissions received seeking removal of the building from *SCHED1-Heritage Buildings* or *SCHED3-Heritage Areas* from the owner or any other submitter.
- 24 Accordingly, if the Panel were to recommend the Council change the historic heritage overlays for the building, this would need to be through an 'out of scope' recommendation under clause 100 of Schedule One of the Resource Management Act 1991 (the Act).
- 25 As an alternative, the Council could use its ability to make alterations to a plan of minor effect, per Clause 16(2) of Schedule One of the Act to remove the *SCHED1-Heritage Buildings* entry for the building.
- 26 For the avoidance of doubt, given the building will be totally demolished when works are completed, it is apparent to me that the *SCHED1-Heritage Buildings* entry for the building will need to be removed.
- 27 It is not logical to have an entry in *SCHED1-Heritage Buildings* for a building that does not exist.
- 28 None of the rules proposed in the *Heritage Buildings* section of the Historic Heritage chapter would be appropriate to manage whatever remnant heritage values may exist on a vacant site.
- 29 However, I do consider that the site should remain within and form the eastern most corner of the *Cuba Street Heritage Area* (see Figure 1) and subject to the *Heritage Area* provisions of the Historic Heritage chapter.
- 30 This would mean that new development on the site would continue to be required to have regard to the matters in recommended policy [HH-P15 'New Buildings and Structures within Heritage Areas'](#) and not detract from heritage values.
- 31 I hold this view for the following reasons:

31.1 **The site is highly visible when viewed from Cuba Street and the road boundary is aligned with 141 Cuba Street, also a scheduled heritage building.**

31.1.1 This relationship is shown in (Figure 4), where it can be observed that the buildings and their lot boundaries align with one another at street edge, in comparison to the relationship between 43 and 39 Ghuznee Street, whose boundary is set back by some five meters (Figure 5).



Figure 4: View of 43 Ghuznee Street (location of blue building) and 141 Cuba Street, viewed from Cuba Street. Credit: WCC



Figure 5: View of 39 (6 storey) and 43 Ghuznee Street (blue building) showing effect of different lot boundaries

- 31.1.2 A new building assessed under the City Centre Zone provisions would be required to be built to this street edge of 43 Ghuznee Street. It would also be required to include both an 'active edge' and a verandah.
- 31.1.3 Given the requirement for building alignment, the prominence of the required verandah features and the visibility from Cuba Street there should in my view be consideration of the matters in HH-P15.
- 31.1.4 Per the recommended policy, this would include the architectural style of the neighbouring building, the compatibility of the scale, form and proportion, design and materials of buildings, and the maintenance of façade alignment.
- 31.1.5 This assessment would help to ensure a new building does not detract from the heritage values of the Cuba Street Heritage Area and 141 Cuba Street.
- 31.1.6 It would also require more detailed heritage assessment to understand what effects there could be on the heritage area and 141 Cuba Street immediately to the west. I would expect that such a change would be greater in effect compared to striking through the *SCHED1-Heritage Building* entry which I consider would be minor.
- 31.2 **The extent of the heritage area around the Cuba/Ghuznee street intersection extends for at least two building widths or at least 30m from street edge.**
- 31.3 It would seem to me to be an inconsistent planning outcome and out of step with the approach elsewhere, if the extent of the Heritage Area on the eastern side from this intersection were reduced to ~20m (approx. length of 141 Cuba Street).
- 31.4 Around all other corners of this intersection, the heritage area extends for at least 30m from street edge. I do not consider including vacant sites within a

heritage area to be an issue given this occurs in the existing situation, and that substantial development is still enabled through the resource consent process.

31.5 In any case, there is no technical evidence available which would support removing the site from the Cuba Street Heritage Area.

A handwritten signature in black ink, appearing to read 'AMC', with a horizontal line extending to the right.

Date: 3 November 2023

Name: Adam McCutcheon

Position: Team Leader, District Planning

Wellington City Council